

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 190

HOUSE BILL 2686

AN ACT

AMENDING SECTIONS 32-1301, 32-1309, 32-1334, 32-1367, 32-1373, 32-1394, 32-1396.01, 32-1398 AND 32-1399, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 12, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-1394.01 AND 32-1394.02; RELATING TO FUNERAL DIRECTORS AND EMBALMERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1301, Arizona Revised Statutes, is amended to
3 read:

4 32-1301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Accredited" means recognized or authorized by the American board
7 of funeral service education.

8 2. "Administrative costs and expenses" means the cost of copies,
9 transcripts, court reporter and witness fees, reimbursement for mileage and
10 office of administrative hearing HEARINGS costs.

11 3. "Alternative container" means any unfinished wood box or other
12 nonmetal receptacle or enclosure, without ornamentation or a fixed interior
13 lining, that is designed for the encasement of human remains.

14 4. "Apprentice embalmer" means a person who is registered pursuant to
15 this chapter and who is engaged in embalming under the supervision of a
16 licensed embalmer.

17 5. "Authorizing agent" means a person who is legally entitled to order
18 the cremation, disinterment or embalming of human remains PURSUANT TO SECTION
19 32-1365.02.

20 6. "Beneficiary" means a person whose future funeral arrangements will
21 be handled by a funeral establishment pursuant to a prearranged funeral
22 agreement.

23 7. "Board" means the state board of funeral directors and embalmers.

24 8. "Business entity" includes any corporation, association, limited
25 liability company, professional corporation, partnership, limited
26 partnership, sole proprietorship, business trust, trust, joint venture and
27 other business entity.

28 9. "Casket" means a rigid container that is designed for the permanent
29 encasement of human remains and that is usually constructed of wood, metal
30 or man-made substances and ornamented and lined with fabric.

31 10. "Change of ownership" means a transfer of a controlling legal or
32 equitable interest in a licensed funeral establishment or crematory resulting
33 from a sale or merger. If the establishment or crematory is operated by a
34 business entity, any transfer of the ownership of ten per cent or more of the
35 entity constitutes a change of ownership.

36 11. "Conviction" means a criminal adjudication OR CONVICTION by any
37 state or federal court of competent jurisdiction, including a judgment based
38 on a no contest plea, without regard to whether civil rights have been
39 restored.

40 12. "Cremated remains" means the remaining bone fragments after
41 cremation.

42 13. "Cremation" means the heating process that reduces human remains
43 to bone fragments by combustion and evaporation.

1 14. "Cremation container" means a leak and spill resistant, rigid,
2 combustible, closed receptacle into which human remains are placed before
3 cremation.

4 15. "Cremationist" means a person who ~~is engaged in cremation~~ OPERATES
5 A CREMATORY RETORT, WHO PERFORMS THE ACTUAL CREMATION OF HUMAN REMAINS AND
6 WHO IS LICENSED PURSUANT TO ARTICLE 6 OF THIS CHAPTER.

7 16. "Crematory" means a building or portion of a building that is
8 licensed pursuant to article 6 of this chapter AND that houses a retort in
9 which only human remains are cremated.

10 17. "Disciplinary action" means action taken by the board to revoke or
11 suspend a license or registration, to impose probationary requirements or
12 civil penalties or to issue a letter of censure or reprimand to any person
13 who is subject to this chapter and who violates any provision of this chapter
14 or rules adopted by the board.

15 18. "Embalmer" means a person who is licensed pursuant to this chapter
16 and who is engaged in embalming.

17 19. "Embalmer's assistant" means a person who is registered pursuant
18 to this chapter and who is engaged in embalming without the supervision of
19 a licensed embalmer.

20 20. "Embalming" means the implementation of reconstructive procedures
21 or the process of disinfecting and preserving a dead human body to retard
22 organic decomposition by treating the body to reduce the presence and growth
23 of organisms.

24 21. "Financial institution" means a bank, savings and loan association,
25 trust company or credit union that is lawfully doing business in this state
26 and that is not affiliated with a funeral establishment.

27 22. "Fixed price prearranged funeral agreement funded by trust" means
28 any agreement or combination of agreements that establishes a fixed price for
29 funeral goods and services, that requires a funeral establishment to provide
30 those funeral goods and services at the price levels in effect at the time
31 of the execution of the agreement and that requires the purchaser to convey
32 all or a portion of the accrued interest to the funeral establishment at the
33 time that the funeral goods and services are actually provided.

34 23. "Funded by insurance" means that monies for a prearranged funeral
35 agreement are paid directly to an insurance company licensed pursuant to
36 title 20 on behalf of the beneficiary of the agreement.

37 24. "Funeral directing" means arranging, directing or providing a
38 service in the disposition of dead human bodies for compensation.

39 25. "Funeral director" means a person who is licensed pursuant to this
40 chapter and who is engaged in funeral directing.

41 26. "Funeral establishment" means a business at a specific location
42 that is licensed pursuant to this chapter and that is devoted to the care,
43 storage or preparation for final disposition or transportation of dead human
44 bodies.

1 27. "Funeral goods and services" means any personal property or
2 services typically sold or provided in connection with the final disposition
3 of human remains, including caskets, alternative containers, outer burial
4 containers, cremation containers, transportation containers, funeral clothing
5 or accessories, monuments, grave markers, urns, embalming services, funeral
6 directing services and similar funeral or burial items. Funeral goods and
7 services does not include goods and services sold by cemeteries.

8 28. "Good moral character" means that a person:

9 (a) Has not been convicted of a class 1 or 2 felony by a court of
10 competent jurisdiction.

11 (b) Has not, within five years of application for licensure or
12 registration, been convicted of a felony or misdemeanor if the offense has
13 a reasonable relationship to the person's proposed area of licensure or
14 registration.

15 (c) Has not, within five years of application for licensure or
16 registration, committed any act involving dishonesty, fraud,
17 misrepresentation, breach of fiduciary duty, gross negligence or incompetence
18 if the act has a reasonable relationship to the person's proposed area of
19 licensure or registration.

20 (d) Is not currently incarcerated in or on community supervision after
21 a period of imprisonment in a local, state or federal penal institution or
22 on criminal probation.

23 (e) Has not engaged in fraud or misrepresentation in connection with
24 an application for licensure or registration under this chapter or an
25 examination required for licensure or registration.

26 (f) Has not, within five years of application for licensure or
27 registration, had a license, registration or endorsement revoked or suspended
28 by the board or by the funeral services licensing authority of any other
29 jurisdiction.

30 (g) Has not surrendered a license, registration or endorsement to the
31 board or the funeral licensing authority of any other jurisdiction in lieu
32 of disciplinary action.

33 (h) Has not practiced funeral directing or embalming without a license
34 in this state or any other jurisdiction that requires licensure to perform
35 these activities.

36 29. "Holding facility" means a designated area for the retention of
37 human remains.

38 30. "Human remains" means a dead human body.

39 31. "Intern" means a person who is licensed pursuant to this chapter
40 and who is engaged in embalming under the supervision of a licensed embalmer.

41 32. "License" means a written authorization that is issued by the board
42 and that entitles a person to act as a funeral director, embalmer or intern
43 or to operate a funeral establishment or crematory in this state.

1 33. "Licensee" means a person to whom the board has issued a license
2 to act as a funeral director, embalmer or intern or to operate a funeral
3 establishment or crematory in this state.

4 34. "Manage" means:

5 (a) For a responsible funeral director to exercise control and
6 oversight over all employees of a funeral establishment and over funeral
7 transactions, including the care of dead human bodies, funeral services and
8 activities and the documentation and retention of records.

9 (b) For a responsible cremationist to exercise control and oversight
10 over all employees of a crematory and crematory operations:

11 35. "National board examination" means the test or tests given by the
12 conference of funeral service examining boards to determine the entry level
13 knowledge and skills of a person regarding funeral directing and embalming.

14 36. "Net interest" means interest earned on a prearranged funeral trust
15 account less applicable taxes, reasonable and necessary charges made by the
16 financial institution and the annual service fee permitted to be deducted by
17 the funeral establishment according to section 32-1391.06, subsection B.

18 37. "Outer burial container" means a container that is designed for
19 placement in a grave around a casket, including burial vaults, grave boxes
20 and grave liners.

21 38. "Owner" means a person who owns ten per cent or more of a business
22 entity. Owner does not include shareholders of companies who have a class
23 of common equity stock listed or authorized to be listed on the New York
24 stock exchange, OR the American stock exchange, or listed on the NASDAQ
25 stock market.

26 39. "Person legally responsible" means the person responsible for
27 burying a dead body as determined in section 36-831.

28 40. "Prearranged funeral agreement" means any agreement or combination
29 of agreements under which a payment is made before the death of the intended
30 beneficiary for funeral goods and services to be delivered or performed after
31 the death of the beneficiary.

32 41. "Prearranged funeral trust account" means a trust account that is
33 established at a financial institution and into which all monies paid on
34 behalf of a beneficiary pursuant to a prearranged funeral agreement are
35 deposited.

36 42. "Preparation" means washing, shaving, dressing or arranging hair
37 on, applying cosmetics to or positioning bodily features on a dead human body
38 and placing a dead human body in a casket.

39 43. "Processed cremated remains" means cremated remains after they are
40 pulverized and cleaned, leaving primarily small bone fragments.

41 44. "Provisionally accredited" means granted candidacy status by the
42 American board of funeral service education.

1 45. "Registration" means a written authorization that is issued by the
2 board and that entitles a person to act as an apprentice embalmer, an
3 assistant funeral director, an embalmer's assistant or a prearranged funeral
4 salesperson in this state.

5 46. "Responsible cremationist" means a person LICENSED CREMATIONIST who
6 manages a crematory.

7 47. "Responsible funeral director" means a person who is licensed
8 pursuant to this chapter, who is engaged in funeral directing and who manages
9 a funeral establishment.

10 48. "Retort" means an enclosed space within which cremation takes
11 place.

12 49. "State equivalent examination" means the test or tests provided by
13 the conference of funeral service examining boards and offered by the board
14 to determine the entry level knowledge and skills of a person regarding
15 funeral directing and embalming.

16 50. "Supervise" or "supervision" means a licensed embalmer has
17 responsibility for and is within sight and sound of a registered apprentice
18 embalmer or licensed intern who is embalming a dead human body or a student
19 who is assisting in embalming a dead human body.

20 51. "Temporary container" means a receptacle that is usually made of
21 cardboard, rigid plastic or another similar material and that is designed to
22 hold processed cremated remains until they are placed in an urn or another
23 permanent container.

24 52. "Trust funds" means all monies deposited on behalf of a beneficiary
25 of a prearranged funeral agreement funded by trust and all accrued net
26 interest. Trust funds shall be considered an account kept in suspense until
27 distributed to the beneficiary, the funeral establishment or the estate of
28 the beneficiary in accordance with this article.

29 53. "Universal precautions" means the universal blood and fluid
30 precautions recommended by the centers for disease control of the United
31 States public health service to prevent the transmission of blood-borne and
32 bodily fluid-borne infectious diseases.

33 54. "Unprofessional conduct" includes the following acts, whether
34 occurring in this state or elsewhere:

35 (a) Commission of a class 1 or 2 felony.

36 (b) Commission of a felony or misdemeanor if the offense has a
37 reasonable relationship to funeral directing or embalming. Conviction by any
38 court of competent jurisdiction or a plea of no contest is conclusive
39 evidence of the commission.

40 (c) Providing false, misleading or deceptive information on an
41 application for licensure or registration pursuant to this chapter or on an
42 examination required for licensure or registration.

43 (d) Bribing or offering to bribe, directly or indirectly, a member of
44 the board to influence the member's actions in the performance of the
45 member's duties.

1 (e) Wilfully interfering with an embalmer, or funeral director OR
2 CREMATIONIST who has lawful custody of a dead human body in the performance
3 of the embalmer's or funeral director's OR CREMATIONIST'S duty to embalm or
4 prepare the body for burial or transportation OR CREMATION.

5 (f) Paying or causing money or other valuable consideration to be paid
6 to a person, other than an employee of a funeral establishment, to secure
7 business regulated pursuant to this chapter from or through the person.

8 (g) Violating any law of this state or any rule adopted by the
9 department of health services that relates to the embalming or preparation
10 of dead human bodies.

11 (h) Certifying falsely to having embalmed or prepared a dead human
12 body that was embalmed by a person other than a licensed embalmer making the
13 certification or an intern or apprentice embalmer under the supervision of
14 a licensed embalmer making the certification.

15 (i) Falsely advertising or labeling any service or merchandise with
16 the intention of deceiving the public.

17 (j) Shipping or delivering any merchandise or supplies that are not
18 the substantial equivalent of or superior in quality to merchandise or
19 supplies previously presented to the purchaser as samples.

20 (k) Committing any act involving dishonesty, fraud, misrepresentation,
21 breach of fiduciary duty, gross negligence or incompetence if the act has a
22 reasonable relationship to funeral directing or embalming.

23 (l) Engaging in any conduct or practice that is reasonably related to
24 funeral directing or embalming and that is or may be harmful or dangerous to
25 the health, safety or welfare of the public.

26 (m) Within a period of five years, having a license, registration or
27 endorsement suspended or revoked by the board or by the funeral services
28 licensing authority of any other jurisdiction or surrendering a license,
29 registration or endorsement in lieu of disciplinary action.

30 55. "Urn" means a receptacle into which processed cremated remains are
31 placed for disposition.

32 Sec. 2. Section 32-1309, Arizona Revised Statutes, is amended to read:
33 32-1309. Fees

34 A. The board shall establish and collect the following application
35 fees:

- 36 1. For a funeral director license, eighty-five dollars.
- 37 2. For an embalmer license, eighty-five dollars.
- 38 3. For an embalmer's assistant registration, eighty-five dollars.
- 39 4. For an intern license, eighty-five dollars.
- 40 5. For a funeral director or embalmer license for a person who does
41 not reside in this state, eighty-five dollars.
- 42 6. For a prearranged funeral salesperson registration, eighty-five
43 dollars.
- 44 7. For a funeral establishment license:

- 1 (a) For a new establishment, new owner or new location, five hundred
2 dollars.
- 3 (b) For a change of name, one hundred seventy-five dollars.
- 4 8. For a prearranged funeral sales establishment endorsement, one
5 hundred eighty-five dollars.
- 6 9. For a crematory license:
- 7 (a) For a new crematory, new owner or new location, one hundred
8 dollars per retort.
- 9 (b) For a change of name, one hundred seventy-five dollars.
- 10 10. FOR A CREMATIONIST LICENSE, EIGHTY-FIVE DOLLARS.
- 11 B. The board shall establish and collect the following examination
12 fees:
- 13 1. For the funeral director state laws and rules examination, eighty
14 dollars.
- 15 2. For the embalmer state laws and rules examination, eighty dollars.
- 16 3. For the PREARRANGED FUNERAL salesperson state laws and rules
17 examination, eighty dollars.
- 18 4. For the funeral service science section of the state equivalent
19 examination, one hundred fifty dollars.
- 20 5. For the funeral service arts section of the state equivalent
21 examination, one hundred fifty dollars.
- 22 C. The board shall establish and collect the following license and
23 registration issuance fees:
- 24 1. For a funeral director license, eighty-five dollars.
- 25 2. For an embalmer license, eighty-five dollars.
- 26 3. For an embalmer's assistant registration, eighty-five dollars.
- 27 4. For an intern license, eighty-five dollars.
- 28 5. For a prearranged FUNERAL salesperson registration, eighty-five
29 dollars.
- 30 6. FOR A CREMATIONIST LICENSE, EIGHTY-FIVE DOLLARS.
- 31 D. The board shall establish and collect the following renewal fees:
- 32 1. For a funeral director license, eighty-five dollars.
- 33 2. For an embalmer license, eighty-five dollars.
- 34 3. For an embalmer's assistant registration, eighty-five dollars.
- 35 4. For an intern license, eighty-five dollars.
- 36 5. For an apprentice embalmer registration, eighty-five dollars.
- 37 6. For an assistant funeral director registration, eighty-five
38 dollars.
- 39 7. For a prearranged funeral salesperson registration, eighty-five
40 dollars.
- 41 8. For an establishment license, four dollars for each disposition
42 performed by the establishment during the immediately preceding calendar
43 year. For the purposes of this paragraph, a funeral establishment performs
44 a disposition each time the establishment files a death certificate pursuant
45 to section 36-331.

1 9. For a prearranged funeral sales establishment endorsement, one
2 hundred eighty-five dollars.

3 10. For a crematory license, two hundred dollars per retort.

4 11. FOR A CREMATIONIST LICENSE, EIGHTY-FIVE DOLLARS.

5 E. The board shall establish and collect the following fees:

6 1. For a duplicate license or registration, twenty-five dollars.

7 2. For a reexamination:

8 (a) For a state laws and rules examination, fifty dollars.

9 (b) For the funeral service science section or the funeral service
10 arts section of the state equivalent examination, sixty-five dollars.

11 3. For late renewal of a licensee or registration, thirty-five
12 dollars.

13 4. For late renewal of an establishment license or endorsement, sixty
14 dollars.

15 5. For inactive licensure or registration, twenty-five dollars.

16 6. For reinstatement of an inactive license, fifty dollars.

17 7. For reinstatement of an inactive registration, one hundred thirty
18 dollars.

19 8. For an interim funeral establishment permit, twenty-five dollars.

20 9. For filing an annual trust report, a fee of not more than two
21 hundred dollars.

22 10. For filing a late or incomplete annual trust report, a penalty of
23 not more than two hundred dollars.

24 Sec. 3. Section 32-1334, Arizona Revised Statutes, is amended to read:

25 32-1334. Inactive status

26 A. A licensed embalmer or, funeral director OR CREMATIONIST who
27 retires from practicing embalming or funeral directing or CREMATING who is
28 not currently practicing embalming or funeral directing in this state may
29 request that the board place the person's license on inactive status. The
30 person shall submit the request on a form prescribed by the board and shall
31 pay the applicable fee pursuant to section 32-1309.

32 B. A person who holds an inactive license shall not practice embalming
33 or, funeral directing OR CREMATION in this state.

34 C. A person who holds an inactive license may request that the board
35 reactivate the person's license. If an inactive licensee desires to
36 reactivate a license, the inactive licensee shall submit a completed
37 application on a form prescribed by the board, the applicable fee pursuant
38 to section 32-1309, a completed fingerprint card and the prescribed
39 fingerprint background check fee. The person shall demonstrate that he is
40 of good moral character and shall pass the applicable state laws and rules
41 examination.

42 ~~D. If an inactive licensee desires to reactivate a license that has~~
43 ~~been inactive for more than three years, the person shall comply with~~
44 ~~subsection C of this section and shall pass the state laws and rules~~
45 ~~examination.~~

1 Sec. 4. Section 32-1367, Arizona Revised Statutes, is amended to read:
2 32-1367. Investigations; initial review; disciplinary
3 proceedings; civil penalty; letters of concern;
4 rehearings

5 A. The board shall conduct an investigation when it receives a written
6 complaint that appears to show the existence of any grounds for disciplinary
7 action under this chapter or rules adopted pursuant to this chapter.

8 B. The board on its own initiative may investigate any information
9 that appears to show the existence of any grounds for disciplinary action
10 under this chapter or rules adopted pursuant to this chapter.

11 C. If it appears after an initial investigation that grounds for
12 disciplinary action may exist, the board may either request an informal
13 interview with the licensee or registrant or may issue a notice of a formal
14 hearing. If the initial investigation indicates that suspension other than
15 a temporary suspension imposed pursuant to subsection D of this section or
16 revocation of a license, registration or endorsement may be warranted, the
17 board shall schedule a formal hearing pursuant to title 41, chapter 6,
18 article 10.

19 D. After completing an informal interview, the board may take any or
20 all of the following disciplinary actions:

21 1. Issue a letter of censure or reprimand.

22 2. Impose probationary terms as the board deems necessary to protect
23 the public health, safety and welfare and to rehabilitate or educate the
24 licensee or registrant. Probationary terms imposed pursuant to this
25 paragraph may include temporary suspension of a license, registration or
26 endorsement for a period of not more than thirty days, restriction of the
27 licensee's or registrant's right to practice pursuant to this chapter and a
28 requirement that restitution be made to any funeral service consumer or other
29 person who was injured by a violation of this chapter or rules adopted
30 pursuant to this chapter. A licensee's or registrant's failure to comply
31 with any probationary terms imposed pursuant to this paragraph is cause for
32 the board to consider the entire case against the licensee or registrant and
33 any other alleged violations of this chapter at a formal hearing.

34 3. Impose a civil penalty of not more than one thousand dollars for
35 each violation.

36 E. After completing a formal hearing, the board may take any or all
37 of the following disciplinary actions:

38 1. Issue a letter of censure or reprimand.

39 2. Impose probationary terms as the board deems necessary to protect
40 the public health, safety and welfare and to rehabilitate or educate the
41 licensee or registrant. Probationary terms imposed pursuant to this
42 paragraph may include a requirement that restitution be made to any funeral
43 service customer or other person who was injured by a violation of this
44 chapter or rules adopted pursuant to this chapter.

1 3. Impose a civil penalty not to exceed three thousand dollars per
2 violation.

3 4. Suspend a license, registration or endorsement FOR NOT MORE THAN
4 NINETY DAYS FOR A FIRST OFFENSE AND NOT MORE THAN ONE HUNDRED EIGHTY DAYS FOR
5 A SECOND OFFENSE.

6 5. Revoke a license, registration or endorsement.

7 F. If, as a result of information ascertained during an investigation,
8 informal interview or formal hearing, the board determines that an alleged
9 violation of this chapter or rules adopted pursuant to this chapter is not
10 sufficiently serious to warrant disciplinary action, the board may issue a
11 letter of concern to the licensee or registrant. The letter of concern shall
12 advise the licensee or registrant of the possible violation.

13 G. If a licensee or registrant refuses to participate in an informal
14 interview or a formal hearing, the board may take any or all of the
15 disciplinary actions listed in subsections D and E of this section.

16 H. Before the board may revoke or suspend a license, registration or
17 endorsement, other than a temporary suspension imposed pursuant to subsection
18 D of this section, the board shall serve notice and conduct a hearing in the
19 manner prescribed in title 41, chapter 6, article 10.

20 I. After service of notice of a decision of the board suspending or
21 revoking a license, registration or endorsement or imposing a disciplinary
22 action on a licensee or registrant pursuant to subsection D or E of this
23 section, a licensee may apply for a rehearing or review by filing a motion
24 pursuant to title 41, chapter 6, article 10. The filing of a motion for a
25 rehearing or review suspends the operation of the board's decision to impose
26 a disciplinary action and allows the licensee or registrant to continue to
27 practice pending a denial or granting of the petition and pending the
28 decision of the board on rehearing if a rehearing is granted. The board also
29 may grant a rehearing on its own motion if it finds newly discovered evidence
30 or for any other reason that justifies a reconsideration of a matter.

31 J. Except as provided in section 41-1092.08, subsection H, any party
32 who is aggrieved by a final order or decision of the board may appeal to the
33 superior court pursuant to title 12, chapter 7, article 6.

34 K. All notices that the board is required to provide to any person
35 under this chapter are fully effective by personal service or by mailing a
36 copy of the notice by certified mail addressed to the person's last known
37 address of record in the board's files. Notice by mail is complete at the
38 time of its deposit in the mail.

39 L. IN ADDITION TO THE REQUIREMENTS OF SUBSECTION K OF THIS SECTION,
40 A FUNERAL ESTABLISHMENT OR CREMATORY SHALL FILE A NOTICE WITH THE BOARD
41 IDENTIFYING THE PERSON ON WHOM THE BOARD'S NOTICES RELATING TO THE FUNERAL
42 ESTABLISHMENT OR CREMATORY SHALL BE SERVED.

1 Sec. 5. Section 32-1373, Arizona Revised Statutes, is amended to read:
2 32-1373. Statement of funeral goods and services

3 A. A licensee or registrant shall not enter into a contract to furnish
4 funeral goods or services in connection with the burial or other disposition
5 of a dead human body until the licensee or registrant has first delivered to
6 the potential purchaser a written or printed statement of funeral goods and
7 services that contains the following information, if this information is
8 available at the time the contract is executed:

9 1. The total charge for the services of the licensee or registrant and
10 the use of the funeral establishment, including the preparation of the body
11 and other professional services, and the charge for the use of automotive and
12 other necessary equipment.

13 2. An itemization of charges for the casket or alternative container
14 and any outer burial container.

15 3. An itemization of fees or charges and the total amount of cash
16 advances made by the licensee or registrant for transportation, flowers,
17 cemetery or crematory charges, newspaper notices, clergy honorarium,
18 transcripts, telegrams, long-distance telephone calls, music and any other
19 advances authorized by the purchaser.

20 4. The method of payment and any interest charges.

21 5. An itemization of any fees or charges not included in paragraphs
22 1 through 4.

23 6. The total amount of charges itemized and included pursuant to this
24 subsection.

25 7. THE LOCATION WHERE THE DECEASED WILL BE HELD, EMBALMED OR CREMATED
26 IF THE LOCATION IS NOT THE FUNERAL ESTABLISHMENT'S PREMISES.

27 8. A STATEMENT CONTAINING THE NAME, ADDRESS AND PHONE NUMBER OF ANY
28 CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED PARTNERSHIP
29 THAT HOLDS AN OWNERSHIP INTEREST OF TEN PER CENT OR MORE IN THE FUNERAL
30 ESTABLISHMENT OR CREMATORY.

31 B. The statement of funeral goods and services delivered to the
32 potential purchaser shall also contain a conspicuous statement informing the
33 potential purchaser that a casket or outer burial container may be purchased
34 and used, at the option of the purchaser, in connection with the funeral
35 services and final disposition of human remains, but that, except as provided
36 pursuant to section 36-136, the purchase or use of caskets or outer burial
37 containers is not required by law.

38 C. A licensee or registrant shall not bill or cause to be billed any
39 item that is referred to as a cash advanced item unless the net amount paid
40 for the item or items by the funeral establishment is the same as the amount
41 billed by the funeral establishment.

42 D. If the charge for any of the items prescribed in this section is
43 not known at the time the contract is entered into, the licensee or
44 registrant shall advise the purchaser of the charge for the item within a
45 reasonable period after the information becomes available.

1 E. A funeral director shall certify a statement of funeral goods and
2 services with the funeral director's license number and signature before
3 conducting final services or within five days after the purchaser signs the
4 statement, whichever is earlier.

5 Sec. 6. Section 32-1394, Arizona Revised Statutes, is amended to read:

6 32-1394. Crematory requirements; responsible cremationist

7 A crematory licensed pursuant to this article shall:

8 1. Maintain a retort that is operated at all times in a sanitary and
9 professional manner, that conforms to local building and environmental codes
10 and that provides protection for the health and safety of persons in
11 attendance at a cremation and employees of the crematory.

12 2. Maintain a holding facility that is secure from access by anyone
13 other than employees of the crematory and public officials in the performance
14 of their official duties, that complies with applicable public health laws,
15 that protects the health and safety of employees of the crematory and that
16 preserves the dignity of human remains in the facility.

17 3. Possess all equipment and supplies that are necessary to conduct
18 cremations in a manner that provides protection for the health and safety of
19 persons in attendance at a cremation and employees of the crematory.

20 4. Employ AND DESIGNATE a responsible cremationist who is LICENSED
21 PURSUANT TO THIS ARTICLE, WHO IS trained in crematory operations and who is
22 of good moral character to manage and supervise crematory operations. The
23 responsible cremationist shall submit a completed fingerprint card and the
24 prescribed fingerprint background check fee to the board to enable the board
25 or the department of public safety to conduct a criminal background check.
26 TO MANAGE THE DAILY OPERATION OF THE CREMATORY. THE RESPONSIBLE CREMATIONIST
27 IS RESPONSIBLE FOR THE CREMATORY COMPLYING WITH THE LAWS OF THIS STATE AND
28 THE RULES OF THE BOARD OR THE RULES OF THE DEPARTMENT OF REAL ESTATE, AS
29 APPLICABLE.

30 Sec. 7. Title 32, chapter 12, article 6, Arizona Revised Statutes, is
31 amended by adding sections 32-1394.01 and 32-1394.02, to read:

32 32-1394.01. Application; qualifications for cremationist
33 licensure

34 A. AN APPLICANT FOR A CREMATIONIST LICENSE SHALL SUBMIT A COMPLETED
35 APPLICATION ON A FORM PRESCRIBED BY THE BOARD. THE APPLICATION SHALL BE
36 SUBSCRIBED UNDER OATH AND SHALL BE ACCOMPANIED BY THE APPLICABLE FEE PURSUANT
37 TO SECTION 32-1309 AND ANY ADDITIONAL INFORMATION THAT THE BOARD DEEMS
38 NECESSARY.

39 B. AN APPLICANT FOR A CREMATIONIST LICENSE SHALL BE OF GOOD MORAL
40 CHARACTER AND SHALL SUBMIT A COMPLETED FINGERPRINT CARD AND THE PRESCRIBED
41 FINGERPRINT BACKGROUND CHECK FEE TO THE BOARD TO ENABLE THE BOARD OR THE
42 DEPARTMENT OF PUBLIC SAFETY TO CONDUCT A CRIMINAL BACKGROUND CHECK.

43 C. AN APPLICANT FOR A CREMATIONIST LICENSE SHALL MEET THE EDUCATIONAL
44 REQUIREMENTS AS PRESCRIBED BY THE BOARD IN RULE.

1 D. IF THE BOARD FINDS THAT THE APPLICANT MEETS THE CRITERIA FOR
2 CREMATIONIST LICENSURE UNDER THIS SECTION AND UNDER RULES ADOPTED BY THE
3 BOARD, THE BOARD SHALL ISSUE A CREMATIONIST LICENSE.

4 32-1394.02. Renewal of cremationist licenses

5 A. A CREMATIONIST LICENSE ISSUED PURSUANT TO THIS ARTICLE EXPIRES ON
6 AUGUST 1 OF EACH YEAR.

7 B. A LICENSED CREMATIONIST SHALL SUBMIT A RENEWAL APPLICATION AND THE
8 APPLICABLE RENEWAL FEE PURSUANT TO SECTION 32-1309 ON OR BEFORE JULY 1 OF
9 EACH YEAR. A LICENSE RENEWAL FEE IS NONREFUNDABLE.

10 C. A LICENSED CREMATIONIST THAT SUBMITS A RENEWAL APPLICATION AND THE
11 APPLICABLE RENEWAL FEE AFTER JULY 1 BUT BEFORE AUGUST 1 SHALL PAY A LATE FEE
12 PURSUANT TO SECTION 32-1309 IN ADDITION TO THE RENEWAL FEE.

13 D. A LICENSED CREMATIONIST THAT FAILS TO SUBMIT A RENEWAL APPLICATION
14 AND THE APPLICABLE FEE ON OR BEFORE AUGUST 1 SHALL APPLY FOR A NEW LICENSE
15 PURSUANT TO THIS ARTICLE.

16 Sec. 8. Section 32-1396.01, Arizona Revised Statutes, is amended to
17 read:

18 32-1396.01. Display of license

19 A crematory shall display its license AND THE RESPONSIBLE
20 CREMATIONIST'S LICENSE at the crematory to which the license was issued in
21 a location that enables any member of the public who enters the crematory to
22 observe and read the license.

23 Sec. 9. Section 32-1398, Arizona Revised Statutes, is amended to read:

24 32-1398. Crematories; disciplinary action; acts of crematory

25 A. The board may take disciplinary action against a crematory or an
26 agent or employee of a crematory for any of the following acts:

27 1. Unless otherwise permitted by law, selling or offering to sell a
28 cremation that is not arranged by a funeral establishment licensed pursuant
29 to article 4 of this chapter. This paragraph does not prohibit charging a
30 cremation fee.

31 2. Unless otherwise permitted by law, selling or offering to sell any
32 funeral goods or services other than cremation.

33 3. Cremating or causing the cremation of a dead human body before
34 obtaining certification from the county medical examiner or person performing
35 the duties of the county medical examiner pursuant to section 11-599 and, if
36 the deceased person did not execute a document authorizing the deceased
37 person's cremation pursuant to section 32-1365.01, before obtaining express
38 written consent to cremate the body from the authorizing agent pursuant to
39 section 32-1365.02.

40 4. Using a retort for any purpose other than the cremation of human
41 remains.

42 5. Cremating more than one dead human body at the same time in the
43 same retort without the express written consent of the authorizing agents.

44 6. Introducing a second dead human body into a retort before
45 reasonable efforts have been made to remove all fragments of the cremated

1 remains from the preceding cremation without the express written consent of
2 the authorizing agents. Incidental and unavoidable residue remaining in a
3 retort after a cremation does not constitute a violation of this paragraph.

4 7. Introducing the cremated human remains of a second dead human body
5 into a processor before the termination of the processing of the cremated
6 human remains that were previously in the processor and before reasonable
7 efforts have been made to remove all fragments of cremated remains from the
8 preceding processing without the express written consent of the authorizing
9 agents. Incidental and unavoidable residue remaining in a processor after
10 a processing does not constitute a violation of this paragraph.

11 8. Retaining any accumulated human residue from any retort, processor,
12 container or other equipment used in cremation. A crematory shall dispose
13 of all accumulated human residue in a cemetery in accordance with the rules
14 of the cemetery and any applicable local ordinances.

15 9. Selling or offering for sale anything of value obtained as a result
16 of the cremation process.

17 10. Violating any provision of this chapter or a rule adopted pursuant
18 to this chapter.

19 B. THE ACTS OF AN AGENT OR EMPLOYEE OF A CREMATORY THAT VIOLATE THIS
20 CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER SHALL BE DEEMED TO BE ACTS
21 OF THE CREMATORY.

22 Sec. 10. Section 32-1399, Arizona Revised Statutes, is amended to
23 read:

24 32-1399. Crematories; standards of practice

25 The board shall adopt rules that establish standards equivalent to
26 section 32-1307, subsection A, paragraph 5 for the regulation of crematories
27 and cremation and that include the following:

28 1. A crematory shall develop, implement and maintain a written
29 procedure for the identification of human remains that ensures that remains
30 can be identified from the time that a crematory accepts the delivery of the
31 remains until the cremated remains are released to the authorizing
32 agent. THE IDENTIFICATION PROCEDURES SHALL REQUIRE THE CREMATORY TO COMPLY
33 WITH THE REQUIREMENTS OF THIS SECTION. THE CREMATORY SHALL NOT OPEN A
34 CONTAINER CONTAINING HUMAN REMAINS, EXCEPT UNDER THE PERSONAL SUPERVISION OF
35 A LICENSED FUNERAL DIRECTOR OR EMBALMER. After taking custody of human
36 remains, a crematory shall immediately verify the identification attached to
37 the casket or cremation container and ASSIGN AN IDENTIFICATION NUMBER. THE
38 CREMATORY shall not accept unidentified caskets or cremation containers. The
39 identification shall include the name and address of the deceased, the name
40 and relationship of the authorizing agent, the name of the person or entity
41 engaging the crematory services and, a valid cremation permit issued by a
42 government agency AND A METAL CREMATION DISK CONTAINING THE IDENTIFICATION
43 NUMBER. THE DISK SHALL BE PLACED WITH THE DECEASED DURING CREMATION.

44 2. If a crematory is unable to cremate the human remains immediately
45 after taking custody, the crematory shall store the remains in a holding

1 facility that is secure from access by anyone other than employees of the
2 crematory and public officials in the performance of their duty and that
3 complies with applicable public health laws, preserves the dignity of the
4 human remains and protects the health of employees of the crematory.

5 3. A crematory shall not accept a casket or cremation container from
6 which there is evidence of leakage of body fluids from the human remains and
7 shall not hold human remains for cremation unless they are contained in an
8 individual, closed casket or rigid cremation container of combustible
9 material that preserves the dignity of the human remains and that protects
10 the health of employees of the crematory. Human remains that are not
11 embalmed shall be held by the crematory in a refrigerated holding facility
12 or in compliance with applicable public health laws.

13 4. All body prostheses, bridgework or similar items removed from the
14 cremated remains shall be disposed of by the crematory unless an alternative
15 disposition is agreed to in the authorization to cremate.

16 5. After cremation, the crematory as far as practicable shall remove
17 visible parts of the residual of the cremation process from the retort, shall
18 not combine the cremated or processed remains with other cremated or
19 processed remains and shall attach the identification of the cremated or
20 processed remains to the temporary container or urn into which the remains
21 are placed.

22 6. The crematory shall place cremated or processed remains in a
23 temporary container or urn. Extra space may be filled with clean packing
24 material that will not combine with the cremated or processed remains. The
25 lid or top shall be securely closed. Any cremated or processed remains that
26 do not fit in the temporary container or urn shall be returned in a separate
27 container or, with permission of the authorizing agent, disposed of by the
28 crematory.

29 7. A crematory may dispose of cremated or processed remains in any
30 legal manner directed by a document prepared pursuant to section 32-1365.01
31 or agreed to by the authorizing agent. If the authorizing agent agrees to
32 take possession and does not take possession of the remains within thirty
33 days after cremation or on an agreed date, the crematory shall send written
34 notice to the last known address of the authorizing agent to take
35 possession. Ninety days after the notification is sent or delivered, the
36 crematory may dispose of the cremated or processed remains in any legal
37 manner.

38 8. Unless the deceased has prepared a document pursuant to section
39 32-1365.01, the crematory shall obtain an authorization to cremate from the
40 authorizing agent that shall contain a provision holding the crematory
41 harmless for the disposition of unclaimed cremated or processed remains.

42 9. All employees of the crematory who handle dead human bodies shall
43 use universal precautions and shall otherwise exercise reasonable care to
44 minimize the risk of transmitting any communicable disease from a dead human
45 body.

1 10. Unless the deceased has prepared a document pursuant to section
2 32-1365.01, employees of the crematory shall not remove a dead human body
3 from the container in which it is delivered to the crematory without the
4 express written consent of the authorizing agent. If, after accepting a dead
5 human body for cremation, employees of a crematory discover that a mechanical
6 or radioactive device is implanted in the body, an embalmer licensed pursuant
7 to article 2 of this chapter shall remove the device from the body before
8 cremation takes place.

9 11. A crematory shall keep an accurate record of all cremations
10 performed, including dispositions of cremated and processed remains, for not
11 fewer than five years after the cremation.

12 Sec. 11. Requirements for enactment; two-thirds vote

13 Pursuant to article IX, section 22, Constitution of Arizona, this act
14 is effective only on the affirmative vote of at least two-thirds of the
15 members of each house of the legislature and is effective immediately on the
16 signature of the governor or, if the governor vetoes this act, on the
17 subsequent affirmative vote of at least three-fourths of the members of each
18 house of the legislature.

APPROVED BY THE GOVERNOR MAY 9, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2002.

ON RECONSIDERATION

Passed the House April 9, 2002,

by the following vote: 43 Ayes,

11 Nays, 6 Not Voting
Article 18, Section 22

John Elser
Speaker of the House
Pro Tempore

Norman L. Moore
Chief Clerk of the House

Passed the Senate May 7, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting
With Art. IX, sec. 22

Randall Smith
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8 day of May, 2002,

at 8:05 o'clock A M.

Sandra Ramirez
Secretary to the Governor

Approved this 9 day of

May, 2002,

at 12:50 o'clock P M.

Jim McEwen
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 9 day of May, 2002,

at 3:27 o'clock P M.

Patsy Boyles
Secretary of State

H.B. 2686

Failed
Passed the House April 8, 2002,

by the following vote: 35 Ayes,

15 Nays, 10 Not Voting
Article IX, Section 22

Speaker of the House

Norman L. Moore
Chief Clerk of the House

~~Passed the Senate _____, 20____,~~

~~by the following vote: _____ Ayes,~~

~~_____ Nays, _____ Not Voting~~

~~President of the Senate~~

~~Secretary of the Senate~~

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

H.B. 2686

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~